

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

*IN RE SUBPOENA OF JAMES COMEY BY  
AUTHORITY OF THE HOUSE OF  
REPRESENTATIVES OF THE CONGRESS OF THE  
UNITED STATES OF AMERICA*

Miscellaneous Case No.

**MOTION TO STAY CONGRESSIONAL PROCEEDINGS PURSUANT TO  
CONGRESSIONAL SUBPOENA**

James B. Comey, by and through undersigned counsel, respectfully requests that the Court stay the closed-door deposition of Mr. Comey pursuant to the subpoena issued by United States House of Representatives Committee on the Judiciary (“Judiciary Committee”) on November 21, 2018, until this Court rules on Mr. Comey’s pending Motion to Quash. The subpoena requires Mr. Comey’s attendance at 10:00 a.m. on Monday, December 3, 2018 for a closed-door deposition at the Rayburn House Office Building in Washington, D.C. In support of this motion, Mr. Comey states as follows:

1. District Courts have authority to stay proceedings where such a stay would be an appropriate exercise of the Court’s discretion. *Rhines v. Weber*, 544 U.S. 269, 276 (2005); *Landis v. North American Co.*, 299 U.S. 248, 254-55 (1936). It is an appropriate exercise of the Court’s discretion to enter a stay of an action where there are pending proceedings that bear upon the requested action to be stayed. *Hussain v. Lewis*, 848 F. Supp. 2d 1, 2-3 (D.D.C. 2012) (staying proceeding pending outcome of arbitration petition); *In re Lorazepam & Clorazepate Antitrust Litigation*, 208 F.R.D. 1 (D.D.C. 2002) (staying proceedings pending decision of Rule 23(f) petition); *Chavous v. D.C. Fin. Responsibility & Management Assistance Auth.*, 201 F.R.D.

1, 4 (D.D.C. 2001) (staying discovery pending resolution of “a motion which would be entirely dispositive”).

2. It is appropriate for the Court to relieve Mr. Comey of the obligation of appearing for the closed-door deposition pending decision on the motion to quash because the motion is entirely dispositive of whether Mr. Comey must appear for a closed-door deposition. *Cf. Committee on the Judiciary of U.S. Representatives v. Miers*, 542 F.3d 909, 911 (D.C. Cir. 2008) (staying compliance with a congressional subpoena where a pending appeal would be dispositive of the congressional proceedings).

3. The court is required to consider four factors in deciding a motion to stay:

(1) whether the stay applicant has made a strong showing that it is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.

*Nken v. Holder*, 556 U.S. 418 (2009).

4. Mr. Comey filed concurrently with the instant Motion a Motion to Quash the Congressional Subpoena. Mr. Comey moved to quash the subpoena, as set forth in more detail in the accompanying Memorandum in Support of the Motion to Quash the Congressional Subpoena, because the subpoena exceeds a proper legislative purpose, is issued in violation of House rules, and is unduly harassing to Mr. Comey.

5. The Judiciary Committee will not suffer any prejudice or harm if the proceedings are stayed pending a ruling from this Court. Mr. Comey is asking for a stay only until the Court has an opportunity to rule on the pending Motion to Quash, which will dictate whether Mr. Comey must appear for this closed-door deposition at all.

6. Mr. Comey will suffer significant prejudice if the motion to stay is not entered. As set forth in Mr. Comey's Motion to Quash, Mr. Comey's testimony will be subject to selective leaking by members of the Judiciary Committee in furtherance of the Committee's abuse of these proceedings and harassment of witnesses who appear in closed-door depositions.

7. The public interest largely favors staying the closed-door deposition pending this Court's ruling on Mr. Comey's Motion to Quash. As set forth in the accompanying Motion to Quash, the Judiciary Committee and the House Committee on Oversight and Government Reform have conducted an investigation in a manner that exceeds a proper legislative purpose insofar as members of the committees have established a practice of selectively leaking witnesses' testimony in order to support a false political narrative, while subjecting the witnesses to a variety of abuse. Thus, a hearing on the Motion is in the public interest. Moreover, the investigation has been ongoing for several months and a delay adequate to accommodate the Court's consideration of the Motion is unlikely to unduly impede or prejudice the investigation.

For the foregoing reasons, Mr. Comey respectfully requests that the Court grant this Motion and stay congressional proceedings pursuant to the subpoena issued on November 21, 2018 until such time as this court rules on Mr. Comey's Motion to Quash.

Dated: November 29, 2018

Respectfully submitted,



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*\*Pro Hac Vice Admission to be Requested*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 29, 2018 I caused the foregoing Motion to Stay Congressional Proceedings Pursuant to Congressional Subpoena to be served via email on the following counsel, who have consented to service by electronic means:

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**[PROPOSED] ORDER**

AND NOW, on this \_\_\_\_ day of November/December, 2018, upon consideration of the instant Motion to Stay Proceedings, it is hereby ORDERED and DECREED that the Motion is GRANTED and that the closed-door deposition pursuant to the November 21, 2018 Congressional Subpoena is Stayed.

\_\_\_\_\_  
Date

\_\_\_\_\_  
United States District Judge